

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA,)	
)	
)	
)	
v.)	CRIMINAL No. 2:08-CR-67-DBH-04
)	
PATRICIA MORRISON,)	
)	
DEFENDANT)	

**ORDER ON DEFENDANT’S MOTIONS TO REDUCE SENTENCE
AND FOR REVIEW OF SENTENCE**

The defendant Patricia Morrison has filed two pro se motions. One seeks reduction of her sentence in light of the retroactive 2010 Fair Sentencing Act amendments to the crack cocaine Guidelines. Mot. to Reduce Sentence (ECF No. 349). The other “ask[s] the courts to please review [her] case under the supreme court case Simmons vs. U.S.” Mot. for Review of Case (ECF No. 350).

At sentencing, I held Morrison accountable for 2.97 kilograms of cocaine base. That quantity yielded a base offense level of 36 under the then applicable Guidelines (1.5 kilograms to 4.5 kilograms). Under the amended crack Guidelines, the range has changed (2.8 kilograms to 8.4 kilograms), but Morrison’s quantity, 2.97 kilograms, still yields a base offense level of 36. Because Morrison’s base offense level does not change, her total offense level and Guideline sentencing range also remain the same. Thus, the retroactive Guideline amendments do not benefit Morrison.

As for Morrison's motion referring to "the supreme court case *Simmons v. U.S.*," there is no Supreme Court decision of that name applicable here. Morrison may instead be referring to the Fourth Circuit's decision in *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011), which has prompted a number of pro se motions. *Simmons* held that a prior conviction can only be treated as a felony under the career offender Guideline if the court in that prior conviction had actual authority to impose a sentence in excess of one year on a person with the defendant's level of aggravation and criminal history. But Morrison was not sentenced as a career offender, nor was she treated as a felon for any other purpose, and so *Simmons* does not furnish a basis for relief.

Accordingly, the defendant's motions are **DENIED**.

SO ORDERED.

DATED THIS 4TH DAY OF JUNE, 2013

/s/D. BROCK HORNBY

D. BROCK HORNBY

UNITED STATES DISTRICT JUDGE